

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKDavid Shuler

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

Police at 103 Precinct
Ed Burns AvePolice officeLance WalterAMENDED
COMPLAINTunder the Civil Rights Act,
42 U.S.C. § 1983Jury Trial: ☒ Yes ☐ No
(check one)15 Civ. 9958 AJN

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

USDC SDNY

DOCUMENT

ELECTRONICALLY FILED

DOC #:

DATE FILED: 2/22/16

I. Parties in this complaint:

- A. List your name, identification number, and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff's

Name

ID#

Current Institution

Address

David Shuler441-1407526AMSC18-18 Hazen St.EAST BIRCHWATER QUEENS NY 11370

- B. List all defendants' names, positions, places of employment, and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1

Name

Where Currently Employed

Address

Lance Walter103 Precinct

Shield #

951417RECEIVED
SDNY PRO SE OFFICE
2016 FEB 22 AM 9:56

Case 1:15-cv-09958-AJN-JCF Document 7 Filed 01/13/16 Page 5 of 10
 Case 1:15-cv-09958-AJN Document 5-2 (Court only) Filed 01/13/16 Page 2 of 7

Defendant No. 2 Name _____ Shield # _____
 Where Currently Employed _____
 Address _____

Defendant No. 3 Name _____ Shield # _____
 Where Currently Employed _____
 Address _____

Who did
 what?

Defendant No. 4 Name _____ Shield # _____
 Where Currently Employed _____
 Address _____

Defendant No. 5 Name _____ Shield # _____
 Where Currently Employed _____
 Address _____

II. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. In what institution did the events giving rise to your claim(s) occur?

A.M.KC

B. Where in the institution did the events giving rise to your claim(s) occur?

Perry Building

C. What date and approximate time did the events giving rise to your claim(s) occur?

8/14/14 about 11:00pm

D. Facts: I was being Release from A.M.KC.

What
 happened
 to you?

and as I got ready to go outside
 there was three officer there to pick me up

ANDREW F. PLASSE & ASSOCIATES LLC

ATTORNEY AT LAW

352 Seventh Avenue, Suite 1222

New York, NY 10001-5012

[212] 695-5811

April 21, 2015

David Shuler (441-14-07526)

Anna M. Kross Center

18-18 Hazen Street

East Elmhurst, NY 11370

RE: Claim against the City of New York

Dear David:

The Notice of Claim has to be filed within 90 days of the date of the incident. If it isn't filed, which is what occurred here, you have up to one year to petition the Court for Permission to File a Late Notice of Claim. There is a specified criterion that needs to be met to win the Motion, but in sum and substance, the short version is that you need documentary evidence that the incident occurred. This would be met by having an arrest report – I have NYC Rikers Island Records, which demonstrate mandible fracture closed, but no arrest reports, or any incident reports. I am sending out another request to Mr. Colihan for this information, for whatever good that is going to do for me.

Bottom line – you were arrested on August 16, 2014 for an unspecified charge on the website with a Queens Index Number. You have an attorney on your case right now. Ask your criminal attorney to send me or you, copies of the Arrest reports for August 16, 2014. If he or she doesn't have them, tell them to get the reports for you and to send them to me, or get them from the court or Rikers Island Records on your own. I need some report that you were arrested on August 16, 2014 – even if it doesn't include information about how you were injured, just to prove the fact that police were involved.

Otherwise, I cannot do the Motion to File a Late Claim. You can still file a Civil Rights claim against the individual officers without having to file the Notice of Claim. You have up to three years to do that, but I need the names of the Officers. So get me the names of the Officers who injured you. It can't be that hard to get it from your criminal attorney or the criminal court.

One more thing. Even if you filed a Grievance, that would at least be some type of evidence I can use. I don't know if you did that, but if so, let me know.

ANDREW F. PLASSE & ASSOCIATES LLC

ATTORNEY AT LAW
163-07 Depot Road, Suite 205
Flushing, NY 11358
[212] 695-5811

June 10, 2015

David Shuler (441-14-07526)
Anna M. Kross Center
18-18 Hazen Street
East Elmhurst, NY 11370

RE: Claim against the City of New York

Dear Mr. Shuler:

I received your recent letter dated June 1, 2015. Please note the change of address for all future correspondence.

I am enclosing a Consent to Obtain your File from Debra Friedenberg. Please sign this before a Notary Public and return to my office.

Perhaps your letter to her will be sufficient for her to send me what I need.

It always seems odd to me that my clients in civil claims do not have copies of the Accusatory Instruments. You don't have a copy of the Indictment or accusatory instrument? Isn't that something they are required to give to you?

As I am sure you know, you have up to one year to file the Claim under State Law against the City of New York for Assault and Battery. The Motion for filing the Late Notice of Claim has to be made before that one year period. In other words, as long as the Motion is filed, it is timely. Whether the Court grants or denies it is another thing.

Under the Federal Civil Rights Statute, you have up to three years to file the Summons and Complaint against the individual officers. Whereas in a claim against the City of New York you are not entitled to punitive damages, in a Civil Rights claim you are entitled to punitive damages, if proven, and attorney fees. So even if we don't get the information we need in time, you might actually be better off filing a 1983 action than a Claim under State Law for Assault and Battery.

As I got ready to walk out the officer's told me they needed to talk to me about something, he ask me are you MR. DAVID Shuler, I said yes he told me I need to put my hands behind my back I said for what he told me that I had to come with them to the 103 PT. I said I'm not going no where next thing I know I was hit in the jaw with a walke talkie which happen to break my jaw, I never knew that my jaw was broken until I got x rays on my jaw weeks later, then I was told I had a broken jaw

Was anyone else involved?

Who else saw what happened?

III. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received.

After that I was sent to Bellview Hospital which I was place on a special Diet for three Month I ate food like soup because I couldn't chew nothing

IV. Exhaustion of Administrative Remedies:

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes ☒ No ☐

If YES, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

AMKC

B. Does the jail, prison or other correctional facility where your claim(s) arose have a grievance procedure?

Yes ☒ No ☐ Do Not Know ☐

C. Does the grievance procedure at the jail, prison or other correctional facility where your claim(s) arose cover some or all of your claim(s)?

Yes ☐ No ☒ Do Not Know ☐

If YES, which claim(s)?

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose?

Yes ☐ No ☒

If NO, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes ☐ No ☒

E. If you did file a grievance, about the events described in this complaint, where did you file the grievance?

NONE

1. Which claim(s) in this complaint did you grieve?

NONE

2. What was the result, if any?

3. What steps, if any, did you take to appeal that decision? Describe all efforts to appeal to the highest level of the grievance process.

Not a grievance issue NONE

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

NONE

2. If you did not file a grievance but informed any officials of your claim, state who you informed, when and how, and their response, if any:

I went to the Doctor about
my jaw which I found out
it was Broken

- G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

N/A

Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.

V. **Relief:**

State what you want the Court to do for you (including the amount of monetary compensation, if any, that you are seeking and the basis for such amount).

I want the Court
to look into this because the police
Had no right to hit me with
no walkie talkie so I want
them to pay for my suffering
For eight week's pay me 2 million
Dollars

On
these
claims

VI. Previous lawsuits:

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes ___ No ☒

B. If your answer to A is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another sheet of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff

Defendants

N/A

2. Court (if federal court, name the district; if state court, name the county)

N/A

3. Docket or Index number

N/A

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending? Yes ___ No ☒

If NO, give the approximate date of disposition

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?)

N/A

On
other
claims

C. Have you filed other lawsuits in state or federal court otherwise relating to your imprisonment?

Yes ___ No ☒

D. If your answer to C is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff

Defendants

N/A

2. Court (if federal court, name the district; if state court, name the county)

3. Docket or Index number

N/A

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending? Yes _____ No ✓
If NO, give the approximate date of disposition _____
7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) N/A

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 23 day of Jan, 2016.

Signature of Plaintiff

Inmate Number

Institution Address

[Signature]
441-1407526
18-18 Hazen St.
EAST ELMHURST
QUEENS N.Y. 11370

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint and provide their inmate numbers and addresses.

I declare under penalty of perjury that on this 23 day of Jan, 2016 I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff:

[Signature]

David Shuler 441-1407526



THE CITY OF NEW YORK
DEPARTMENT OF CORRECTION
ANNA M. KROSS CENTER
18-18 HAZEN STREET
EAST ELMHURST, N.Y. 11370



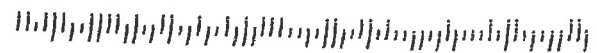
RECEIVED
SDNY
JAN 22 2016

AM 9:56



Alison J. Nathan, United State Dis-
Sudge: Southern Distrit of New York
500 Pearl Street N.Y. N.Y. 10000
Rm. 288

1000781330 C014



Legal Mail